

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KENNETH GIBBS,

Plaintiff,

v.

CARSON, et al.,

Defendants.

No. C 13-0860 THE (PR)

ORDER DIRECTING PLAINTIFF TO  
PROVIDE CURRENT ADDRESS  
NECESSARY TO LOCATE DEFENDANTS  
DR. MALO-CLINES, DR. CRINKLAW,  
MS. TUBMAN AND LT. ANTHONY

Plaintiff Kenneth Gibbs, a state prisoner at Pelican Bay State Prison (PBSP), filed the present pro se prisoner complaint under 42 U.S.C. § 1983. On May 16, 2013, the Court issued an "Order Serving Cognizable Claims," ordering service on eleven Defendants, including Defendants Ms. Tubman, Dental Assistant, Drs. Malo-Clines and Crinklaw and Lt. Anthony. On July 17, 2013, the United States Marshal informed the Court that it could not serve these Defendants. The process receipt and returns filed by the United States Marshal indicate that the PBSP Litigation Coordinator said that: (1) Dr. Malo-Clines is "no longer at PBSP;" (2) Dr. Crinklaw "was a contractor and is no longer at PBSP;" (3) Lt. Anthony "was retired;" and (4) there was insufficient information to identify Ms. Tubman, Dental Assistant. See Doc. ## 22-25.

1           Although a plaintiff who is incarcerated and proceeding  
2 in forma pauperis (IFP) may rely on service by the Marshal, such  
3 plaintiff "may not remain silent and do nothing to effectuate such  
4 service"; rather, "[a]t a minimum, a plaintiff should request  
5 service upon the appropriate defendant and attempt to remedy any  
6 apparent defects of which [he] has knowledge." Rochon v. Dawson,  
7 828 F.2d 1107, 1110 (5th Cir. 1987).

8           Because Plaintiff has not provided sufficient information  
9 to allow the Marshal to locate and serve the above-named  
10 Defendants, Plaintiff must remedy the situation or face dismissal  
11 of his claims against them without prejudice. See Walker v.  
12 Sumner, 14 F.3d 1415, 1421-22 (9th Cir. 1994) (holding prisoner  
13 failed to show cause why prison official should not be dismissed  
14 under Rule 4(m) where prisoner failed to show he had provided  
15 Marshal with sufficient information to effectuate service).  
16 Pursuant to Fed. R. Civ. P. 4(m), if a complaint is not served  
17 within 120 days from the filing of the complaint, it may be  
18 dismissed without prejudice for failure of service. When advised  
19 of a problem accomplishing service, a pro se litigant proceeding  
20 IFP must "attempt to remedy any apparent defects of which [he] has  
21 knowledge." Rochon, 828 F.2d at 1110. Accordingly, Plaintiff must  
22 provide the Court with accurate and current addresses for the  
23 above-mentioned Defendants such that the Marshal is able to effect  
24 service.

25           In the interest of justice, the Court requests that the  
26 PBSP Litigation Coordinator provide more information about the  
27 employment status of Defendants Drs. Malo-Cline and Crinklaw. The  
28

1 request inquires whether Defendant Malo-Clines is currently an  
2 employee of the California Department of Corrections and  
3 Rehabilitation (CDCR). If he is still employed with CDCR, the  
4 Court requests that the PBSP Litigation Coordinator provide the  
5 current employment address for him. If he is no longer employed  
6 with CDCR, the Court requests that the PBSP Litigation Coordinator  
7 provide a forwarding address, or notice that such information is  
8 not available. The Court requests the same information regarding  
9 Dr. Crinklaw. And, although Lt. Anthony is no longer working for  
10 CDCR, the Court requests the forwarding address for him or notice  
11 that this information is not available.

#### 12 CONCLUSION

13 In light of the foregoing, the Court orders as follows:


14 1. Plaintiff must provide the Court with accurate and  
15 current addresses for Defendants Drs. Malo-Cline and Crinklaw, Lt.  
16 Anthony and Ms. Tubman such that the Marshal is able to effect  
17 service. If Plaintiff fails to provide the Court with accurate and  
18 current addresses for these Defendants within thirty (30) days of  
19 the date this Order is filed, Plaintiff's claims against each  
20 Defendant will be dismissed without prejudice pursuant to Rule 4(m)  
21 of the Federal Rules of Civil Procedure.

22 2. In the interest of justice, the Clerk of the Court  
23 shall forward a copy of this order to the Litigation Coordinator at  
24 PBSP, who is requested to provide the above-requested information  
25 for Defendants Drs. Malo-Cline and Crinklaw and Lt. Anthony, or  
26 notice that such information is not available, within thirty (30)  
27 days from the date this Order is filed.

1           3. If the requested information is provided to the Court,  
2 service shall again be attempted. If service fails a second time,  
3 the claims against unserved Defendants shall be dismissed.

4           IT IS SO ORDERED.

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6 Dated: 08/21/2013

  
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THELTON E. HENDERSON  
UNITED STATES DISTRICT JUDGE